

**FLATHEAD COUNTY PLANNING BOARD  
MINUTES OF THE MEETING  
NOVEMBER 2, 2005**

**CALL TO  
ORDER**

A meeting of the Flathead County Planning Board was called to order at 6:00 p.m. Board members present were Charles Lapp, Don Hines, Jeff Larsen, Gene Dziza, Kathy Robertson, Tim Calaway and Kim Fleming. Cal Scott and Frank DeKort had excused absences. Kirsten Holland and Eric Giles represented the Flathead County Planning & Zoning Office.

There were approximately 10 people in the audience.

**PUBLIC  
REVIEW**

Hines reviewed the public hearing process for the public.

**ZONE CHANGE/  
BEGG**

A Zone Change request in the Willow Glen Zoning District by George M. Begg Trust B, from R-2 (One-Family Limited Residential) to R-5 (Two-Family Limited Residential). The property is located at 585 Willow Glen Drive and contains approximately 5 acres. The property can further be described as Lot 1 in Block 1 of Kalispell School Addition, according to the official plat thereof, filed in Official Records of Flathead County, Montana.

**STAFF REPORT**

Eric Giles reviewed Staff Report FZC-05-24 for the Board.

**APPLICANT**

Kate Cassidy, of Stokes & Associates, represented the applicant.

**AGENCIES**

None. *Staff stated Agency referrals are not sent for zone changes.*

**PUBLIC  
COMMENT**

None.

**STAFF  
REBUTTAL**

None.

**APPLICANT  
REBUTTAL**

None.

**MOTION**

Dziza made a motion seconded by Calaway to adopt Staff Report FZC-05-24 as findings of fact as amended and recommended approval to the County Commissioners.

**BOARD  
DISCUSSION**

Robertson said the zone change is a good fit for the area as it is all residential.

Calaway said the request for R-5 zoning “works” and that it’s being put where it should be.

Lapp asked how County R-5 zoning compares to City R-5 zoning. Staff stated the zoning designations are similar but there are some differences.

Hines asked if city R-5 zoning permits storage units. Staff was unsure as the city has a different set of regulations.

Lapp stated this is appropriate, and pointed out city sewer & water exists on Leisure Drive in case there is a residential development to come.

Robertson said the idea of storage units cannot be considered at this time, only the zone change being requested, though an R-5 residential development would be appropriate.

**ROLL CALL**

On a roll call vote the motion passed 6-1 with Hines dissenting.

**PRELIMINARY  
PLAT/  
HEART OF THE  
VALLEY**

A request by Rob and Deborah Burgi for Preliminary Plat approval of Heart of the Valley Subdivision, a twelve (12) lot single family residential subdivision on 20.001 acres. All lots in the subdivision are proposed to have individual septic systems and a shared well system. The property is located at 365 Dunwoody Lane, and can further be described as Tract 3BA in Section 36, Township 30 North, Range 21 West, P.M.M., Flathead County, Montana.

**STAFF REPORT**

Eric Giles reviewed Staff Report FPP-05-64 the Board.

**APPLICANT**

Erica Wirtala, of Sands Surveying, represented the applicants.

Rob Burgi spoke about the history of the property, reasons for developing, and the good relationships they have with neighbors.

**AGENCIES**

None present. *Staff stated there was one comment from Flathead County Weed & Parks department.*

**PUBLIC  
COMMENT**

Anthony Hill, 347 Dunwoody Lane, doesn’t oppose this development although stated concern about neighborhood blight. Mentioned this is an unzoned area and covenants would be in order. Recommended paving of Dunwoody Lane bearing all cost to the developer, and would like to see it become a County road. There is currently no road maintenance agreement and he wants to know what the property owner’s responsibilities will be in regard to road maintenance. Would like to see a privacy/security fence between the development and

existing properties. Wants the developers to assume full responsibility of all road maintenance. Stated that if no conditions are put in place he would oppose this subdivision.

Hines stated the County does not enforce covenants and they would talk about the other concerns during board discussion.

**STAFF  
REBUTTAL**

Staff said the road design was different at the pre-application meeting than what was submitted. The design was first a loop road but was redesigned into a cul-de-sac road.

**APPLICANT  
REBUTTAL**

Erica Wirtala said they discussed doing a higher density development on this property but decided to do something more compatible with the neighborhood. She addressed Mr. Hill's concerns and said they do plan on submitting covenants for this development; when someone chooses to live in an unzoned area, covenants are all they have to fall back on. They will not allow business uses, single-wide mobile homes, and will suggest permanent foundations. Does not feel a privacy/security fence is necessary.

**MAIN  
MOTION**

Calaway made a motion, seconded by Dziza, to adopt Staff Report FPP-05-64 as findings of fact and recommended approval to the County Commissioners.

**BOARD  
DISCUSSION**

Robertson asked staff to address the change in road design.

Staff stated it was an acceptable design without having to request a variance. It was affirmed when the applicant changes the road design following the pre-application meeting, there is no opportunity for staff to address the changes.

Calaway said Condition #5 takes care of the road concerns. Likes the fact the lots are under 2 acres. Says there's a huge aquifer in that area.

Board members discussed the best way to incorporate a road user maintenance agreement for Dunwoody Lane.

**MOTION  
CONDITION #5**

Fleming made a motion, seconded by Dziza, to add a line to Condition #5 stating the applicant shall attempt to enter into a cooperative road user maintenance agreement for the entire length of Dunwoody Lane.

**ROLL CALL  
CONDITION #5**

On a roll call vote the motion passed unanimously.

**BOARD  
DISCUSSION**

Hines asked Wirtala if the applicants were going to pave Dunwoody Lane.

Wirtala said they are, and another new subdivision off Dunwoody Lane is also required to enter into a road maintenance agreement.

Robertson thinks this development will improve the entire neighborhood.

**MOTION**  
**CONDITION #16**

Fleming made a motion, seconded by Robertson, to add Condition #16 stating the applicant will obtain a variance for the road length.

**BOARD**  
**DISCUSSION**

None.

**ROLL CALL**  
**CONDITION #16**

On a roll call vote the motion passed unanimously.

**BOARD**  
**DISCUSSION**

Fleming expressed concern about the railroad being a hazard to the lots it borders and wondered if fencing would be in order.

Calaway said people may want access for recreational use.

Hines asked the applicant if they had any problems raising a family out there.

Applicant replied that traffic is minimal, and people do use the right-of-way for recreational use, which could someday become a path.

Robertson asked if children had to cross the railroad tracks to get to the bus stop.

Burgi said no, the bus stop is at the end of Dunwoody Lane.

**MOTION**  
**CONDITION #12, H**

Robertson made a motion, seconded by Fleming, to add part H to Condition #12 stating this property lies within an airport affected area in the airport overlay zone.

**ROLL CALL**  
**CONDITION #12, H**

On a roll call vote the motion passed unanimously.

**MOTION**  
**CONDITION #12, I**

Robertson made a motion, seconded by Fleming, to add part I to Condition #12 stating that BNSF railway runs adjacent to the entire eastern property.

**ROLL CALL**  
**CONDITION #12, I**

On a roll call vote the motion passed 6-1 with Calaway dissenting.

**BOARD**  
**DISCUSSION**

Lapp asked Staff about a condition for parkland.

Staff replied it should be added as a condition.

**MOTION**  
**Condition #2**

Fleming made a motion, seconded by Robertson, to add a line to Condition #2 to state driveways shall have a minimum 12-foot hard driving surface.

**BOARD  
DISCUSSION**

Lapp asked Fleming to explain her reasoning behind her motion because it's not something the board has done before.

Fleming replied she doesn't see any point in paving the road and having gravel driveways.

Calaway said they can easily pave the road but not driveways because at the time of paving the houses aren't always built; it would impact affordability.

Larsen asked the applicant's opinion.

Burgi said he agrees with Calaway and if they were to pave driveways the costs would be passed on. They are already paying for the paving of the Dunwoody Lane.

Wirtala said you could not enforce paving of driveways.

Larsen said he understands the dust issue but most of it comes from people speeding on County gravel roads.

Lapp stated the applicant would have to do a bond, which would be cumbersome.

**ROLL CALL  
Condition #2**

On a roll call vote the motion failed unanimously.

**MOTION  
Condition #17**

Lapp made a motion, seconded by Dziza, to add Condition #17 stating the applicant will pay cash-in-lieu of parkland in the amount of \$12,000.

**BOARD  
DISCUSSION**

None.

**ROLL CALL  
Condition #17**

On a roll call vote the motion passed unanimously.

**MAIN MOTION  
ROLL CALL**

On a roll call vote the motion passed unanimously.

**PRELIMINARY  
PLAT/  
TIMBERS AT  
WHITEFISH**

A request by Paul Wachholz on behalf of Ascension Development for Preliminary Plat approval of the Timbers at Whitefish, a twenty-one (21) lot single family Major Subdivision and Planned Unit Development, on 53.4 acres. All lots in the subdivision are proposed to have public water and individual sewer systems. The property is located off Highway 93 South.

<b>STAFF REPORT</b>	<p>Kirsten Holland reviewed Staff Reports FPUD-05-08 and FPP 05-08a for the Board.</p> <p>Board members asked questions of Staff regarding roads and access.</p> <p>Staff replied; also said technical assistance could further explain.</p> <p>Hines said other questions will be addressed during board discussion.</p>
<b>APPLICANT</b>	<p>Johna Morrison, of Schwarz Engineering &amp; Architecture, represented the applicants. She addressed access, roads, open space, and groundwater concerns.</p> <p>Larsen asked about road layout for lots 17, 18, and 19 in regards to slope.</p> <p>Morrison explained.</p>
<b>AGENCIES</b>	<p>None. Staff stated her concern to preserve the open space especially since growth is so fast-paced.</p>
<b>PUBLIC COMMENT</b>	<p>Dana Dekoty, of 4634 Hwy. 93 South, asked questions of Staff regarding traversing on their property. Staff pointed out her property on the map and said no easement will be necessary for the road.</p> <p>She was also concerned with preservation of open space and would like to see it remain as such.</p>
<b>STAFF REBUTTAL</b>	<p>None.</p>
<b>APPLICANT REBUTTAL</b>	<p>None.</p>
<b>MAIN MOTION (PUD OVERLAY)</b>	<p>Calaway made a motion, seconded by Larsen, to adopt Staff Report FPUD-05-08 as findings of fact and recommended approval to the County Commissioners.</p>
<b>BOARD DISCUSSION</b>	<p>Fleming was concerned with voting on the PUD overlay without assurance the open space will be preserved. She assumes the applicants plan to develop the open space since they are opposed to a deed restriction.</p> <p>Larsen wanted clarification as to what they were approving by voting on the PUD.</p> <p>Fleming reiterated her concern about the open space being developed.</p> <p>Dziza doesn't think perpetuity is the answer, but thinks a time limit on</p>

preserving the open space would be in order.

Board continued to discuss open space and perpetuity concerns.

Staff commented on the fast growth rate and how it's all the more reason to preserve the open space. The only thing that makes this development a PUD is the density, which they get in exchange for open space.

Calaway said that someday people might want to turn the open space into houses instead of having a weed patch and it's not fair to tie it up.

Staff said they aren't dedicating parkland, and if they don't have to preserve the open space for a period of time, they aren't giving anything in exchange for what they're getting.

Calaway said the parkland should be dealt with when it when it comes through the second time.

Lapp read a section of the regulations regarding PUD's; wanted to know who would retain ownership of the open space.

Staff said the problem with homeowner's associations owning parks or common space is that if back taxes don't get paid, a developer can get the property cheap off the "auction block" and develop it anyway.

**MAIN MOTION  
ROLL CALL  
(PUD OVERLAY)**

On a roll call vote the motion passed 5-2 with Fleming and Robertson dissenting.

**MAIN MOTION  
(SUBDIVISION)**

Calaway made a motion, seconded by Dziza, to adopt Staff Report FPP-05-08a, as amended, as findings of fact and recommended approval to the County Commissioners.

**BOARD  
DISCUSSION**

Fleming stated concern with open space & road access/connectivity.

Robertson wanted to see open space preserved for a specific number of years.

Calaway stated his concerns about road access.

Dziza discussed open space.

Lapp read a section from the regulations and talked about parkland. He asked Staff about the road situation and if this proposal would have to come back before the board if substantial road restructuring occurs pending recommendation from MDOT. Staff replied it would be at the discretion of the Zoning Administrator.

**MOTION**  
**Condition #17**

Lapp made a motion, seconded by Dziza, to add Condition #17 stating the applicant will dedicate a 15-foot bicycle/pedestrian easement in the open space along the highway frontage.

**BOARD**  
**DISCUSSION**

None.

**ROLL CALL**  
**Condition #17**

On a roll call vote the motion passed unanimously.

**BOARD**  
**DISCUSSION**

Larsen discussed open space and time limit, though doesn't agree with perpetuity. Expressed concern about the driveway slopes.

**MOTION**  
**Condition #18**

Larsen made a motion, seconded by Fleming, to add Condition #18 stating the driveway grades will meet the requirements of section 3.9 of the Flathead County Subdivision Regulations, with particular attention paid to lots 17, 18, and 19.

**BOARD**  
**DISCUSSION**

None.

**ROLL CALL**  
**Condition #18**

On a roll call vote the motion passed unanimously.

**BOARD**  
**DISCUSSION**

Larsen asked Robertson and Fleming if they would support this project if a time limit was put on the open space.

Both said yes.

**MOTION**  
**Condition #19**

Fleming made a motion, seconded by Robertson, to add Condition #19 stating the subdivider will place a deed restriction on all area defined as open space in the preliminary plat application, preventing further subdivision and for preservation, as undeveloped land for a period of 25 years.

**BOARD**  
**DISCUSSION**

Calaway thinks 25 years is too long; thinks 10 or 15 years would be more appropriate. Thinks the open space should be deeded as one lot.

Dziza thinks 15 years would be more appropriate; 25 years is too long.

Board continued to discuss the time limit on open space. Hines mentioned the Subdivision Regulations are in the process of being rewritten. They also talked about the Growth Policy.

**ROLL CALL**  
**Condition #19**

On a roll call vote the motion passed 5-2 with Calaway and Dziza dissenting.



**MAIN MOTION  
ROLL CALL  
(SUBDIVISION)**

On a roll call vote the motion pass unanimously.

**OLD BUSINESS**

Calaway brought up Belterra Subdivision.

Staff said applicants have addressed the concerns. It's not necessary to go through the Planning Board again and it can continue on through Commissioners. Staff handed out a letter submitted to the Commissioners from the Planning office explaining the changes.

Hines said the applicant worked with Calaway to smooth out the issues.

**APPROVAL OF  
MINUTES**

Robertson made a motion to approve the October 12, 2005 minutes as written. Minutes were approved as submitted.

**NEW  
BUSINESS/  
PUBLIC  
COMMENT**

Larsen commented about public water systems and the DEQ; mentioned having representatives from the DEQ meet with the board to work through some issues and said he would schedule a time.

Staff said that would be a great idea especially since the Subdivision Regulations are in the process of being rewritten.

Hines asked Staff if it's necessary to pass along a letter to the Commissioners regarding Belterra.

Staff said no, the word could be passed along. Hines wanted a letter drafted by Staff to pass along to the Commissioners.

Fleming asked to have page numbers and planner's initials on the Staff Reports. Staff replied they should be there; it will be taken care of.

The board discussed who would be present on the November 16, 2005 meeting. Lapp wanted to make sure there would be a quorum because he and Larsen will have to step down for Spur Wing Subdivision.

Staff briefed the board on the growth policy meeting schedule and handed out flyers. Asked the board to make a motion to approve the tentative schedule.

**MOTION**

The motion was passed on a motion by Fleming, seconded by Larsen, to approve the tentative Growth Policy meeting schedule.

**NEW BUSINESS  
CONTINUED...**

Larsen asked how advertising will be handled.

Staff told the board a meeting will be held with the manager of Flathead Electric to see about getting a schedule into one of their billing cycles; everyone with power would get a schedule. Will be doing

posters & flyers and sending notices out with adjoining property notifications.

Calaway asked what the board member's roles should be in regard to the meetings.

Staff said it would be good to attend as many meetings as possible. Robertson is going to get minutes and information together from the old growth policy; Staff has some things together as well.

The board discussed compiling the information they may have saved from the old growth policy.

Staff talked about advertising in the paper and discussed the email list regarding the growth policy and will make sure all board members are on it. Talked about getting on the radio.

Larsen offered to go on the radio with Staff.

Hines wants to upsize the board's role in this process.

Staff asked the board about handing out flyers and hanging up posters. Board members offered to hang up posters in different areas.

Staff briefed the board on items that will be on their next meeting's agenda. As an interesting statistic, told them if they approved every proposed development from the three November meetings, it would total 443 lots.

Board discussed December items and the Long Range Planning Task Force meetings.

**ADJOURNMENT** The meeting was adjourned at approximately 10:00 p.m. on a motion by Robertson seconded by Lapp. The next meeting will be held at 6:00 p.m. on November 9, 2005.

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Don Hines, President

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Jill Goodnough, Recording Secretary

APPROVED AS SUBMITTED/CORRECTED: 12/7/05